

**REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-6, 9-12, and 15-17 are pending in this application. Claims 1-4 are independent. Claims 7, 8, 13 and 14 have been previously canceled without prejudice to, or disclaimer of, the subject matter contained therein. The specification has been amended to ensure that the specification and drawing figure numbers are consistent. No new matter is involved.

Applicants also thank Examiner Ke for providing Applicants with English language translations of the cited Tsugo reference and the cited Tanabe reference.

**Request for acknowledgement of Priority Under 35 U.S.C. §119**

Applicants continue to request that the Examiner acknowledge their claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified copy of the priority document filed with the present application on March 23, 2000.

**Drawings**

The Examiner is requested to provide a Notice of Draftsperson's Patent Drawing Review, Form PTO-948, indicating whether the formal drawings are approved by the Official Draftsperson, with the next official communication.

**Amendments to the Specification**

Applicants filed this Application with Fig. 6, whereas the specification incorrectly refers to Fig. 6 as Fig. 6A, Fig. 6B and Fig. 7. Applicant has amended the specification to reflect that the reference to Fig. 6A refers to the upper portion of Fig. 6, that the reference to Fig. 6B refers to the lower portion of Fig. 6 and removes the obviously incorrect reference to non-existent Fig. 7. No new matter is involved. Applicants also note that the embodiment disclosed in the paragraph bridging pages 8 and 9 is shown in Fig. 6.

**Rejections Under 35 U.S.C. §103(a)**

Claims 1-4, 9 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo et al. ("Tsugo") in view of U.S. Patent No. 5,914,717 to Kleewein et al. ("Kleewein"). This rejection is respectfully traversed.

Initially, Applicants respectfully note that although claim 5 is not mentioned in the statement of the rejection on page 2 of the Office Action, claim 5 is rejected in the body of the rejection, found on page 3 of the Office Action. Accordingly, this rejection will be treated as a rejection of claims 1-5, 9 and 10.

In rejecting claims under 35 U.S.C. §103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of

obviousness. See, In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. F-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). To establish prima facie obviousness of a claimed invention, all the claim limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1970). All words in a

claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

A suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." C.R. Bard, Inc. v. M3 Sys. Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999).

Independent claim 1 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors.

Independent claim 2 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are

displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and first lower menu level being displayed on the menu screen in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners.

Independent claim 3 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners.

Independent claim 4 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of

menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu being displayed in a third manner that is different from the second manner.

Claim 5 depends from claim 2 and recites that the menus and menu levels are displayed using blocks, and the selected first and second menus and the corresponding first and second lower menu levels are displayed using a shading that is different from the shadings of the other menus and menu levels.

As explained in the Amendment dated November 18, 2003, Tsugo et al. is directed to a hierarchical menu system stored in a menu file 2 and having an identification code for identifying a level I, II, or III to which an element menu belongs, as shown in Figs. 1 and 2. A color pattern of a frame representing each menu level is stored in a menu frame pattern file 3, where each level is of a different color. As shown, red is for level 1, green is for level 2, and yellow is for level 3.

In Tsugo, each menu level, from the main menu level to the lowest submenu level is disclosed as having a different color than any other menu level. To achieve this, a color pattern of a frame representing each menu level is stored in a menu frame pattern file 3, as disclosed in paragraph [0007].

Tsugo differs from the claimed invention in a number of ways.

First, Tsugo does not disclose that, when the first lower (sub) menu is displayed, the first lower (sub) menu and the first menu from which the first lower (sub) menu was selected are displayed in a second color that is different from the first color of the menu screen having a plurality of menus (including the selected menu). Instead, in Tsugo, the main menu and the main selected menu are displayed in a first color, and the selected submenu is displayed in a second, different color.

Second, Tsugo does not disclose that, when a second lower level (sub) menu is selected and generated (displayed), the selected second lower level (sub) menu and the selected second menu (which was selected from the first lower level (sub) menu) are both displayed in a third color that is different from the first and second colors. Instead, in Tsugo, when a second lower level (sub) menu is generated (displayed), it is in a different color than the color of the second menu from which it was selected.

On page 3, the Office Action states that Tsugo does not teach that the selected menu and the corresponding lower menu level are displayed in a second color that is different from the first color.

While that statement is true as far as it goes, it does not address the different colors of the claimed plurality of pairs of selected menus and submenus.

The Office Action then turns to Kleewein. Kleewein is directed to a system for displaying menus which includes a menu 48, menu item 50, a menu marker 52 and a fly out menu 54, as shown in FIG. 4. When a mouse cursor 36 points at the menu marker 52, the fly out menu 54 is displayed. Moreover, the menu item 50 and the fly out menu 54 are displayed using the same color. Kleewein discloses use of a highlighting color, that depend on the background of the color menu and that the background color and the highlighting color may be selected at the discretion of the application developer (see col. 8, lines 24-27). Kleewein also discloses that the color of the text within a menu item may also be of different colors as selected by the application developer (see col. 8, lines 32-34).

Neither Tsugo nor Kleewein discloses or suggests a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors, as recited in claim 1.



Neither Tsugo nor Kleewein teaches or suggests a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors,” as recited in claim 1.

Neither Tsugo nor Kleewein teaches or suggests a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and first lower menu level being displayed on the menu screen in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners,” as recited in claim 2.

Neither Tsugo nor Kleewein teaches or suggests a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of

menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners,” as recited in claim 3.

Kleewein et al. does not teach or suggest a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu being displayed in a third manner that is different from the second manner,” as recited in claim 4.

Neither Tsugo nor Kleewein discloses that “the menus and menu levels are displayed using blocks, and the selected first and second menus and the corresponding first and second lower menu levels are displayed on a different block from other menus and menu levels,” as recited in claim 5. Contrary to what is asserted on page 3 of the Office Action, Tsugo does not disclose displaying the selected first and second menus and the corresponding first and

second lower menu levels on a different block from other menus and menu levels. The alleged basis for this disclosure is Fig. 2, items I, II and III of Tsugo. However, items I, II and III display each submenu in a separate block, and do not disclose "displaying the selected first and second menus and the corresponding first and second lower menu levels on a different block from other menus and menu levels."

Nor is there any direction in either of the applied references to provide incentive to one of ordinary skill in the art modify one in view of the other to render obvious the claimed invention, which recites features not disclosed in either Tsugo or Kleewien. In fact, each applied reference focuses on different things. Tsugo focuses on a technique to let a window user easily recognize a particular hierarchical menu, whereas Kleewien focuses on color highlighting a selection within a fly-out menu that has a particular background color. The only reason to combine these references at all, let alone as suggested in the rejection, is based solely on Applicants' disclosure, which may not be properly used against them.

Accordingly, this rejection is improper, being based on speculation and impermissible hindsight.

Reconsideration and withdrawal of this rejection of claims 1-5, 9 and 10 is respectfully requested.

Claims 6, 11 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tsugo et al. in view of Kleewein et al., and further in view of U.S. Patent No. 6,154,750 to Roberge et al. This rejection is respectfully traversed.

In rejecting claims 6, 11 and 12, the Office Action relies on Roberge et al. for a teaching of displaying menus and menu levels using different shadings, where a selected menu and corresponding menu level are displayed using a shading that is different from the other menus and menu levels. Applicants respectfully traverse this interpretation. As explained in the Amendment filed on November 18, 2003, Roberge et al. shows several views of a navigation structure on a computer screen in which selecting a menu causes the selected menu to become shaded and causes a corresponding lower menu level to be generated, as shown in Figs. 7-11, for example. However, the selected menu and corresponding lower menu level are not shaded in the same manner or distinguished from other menus and menu levels on the screen. Roberge et al. does not teach or suggest the above-cited limitations of claims 2, 3 or 4. Therefore, Roberge et al. does not cure the deficiencies of Tsugo et al. with respect to claim 2, as incorporated in claim 6. Moreover, Roberge et al. does not cure the deficiencies of Tsugo et al. or Bloomfield et al. with respect to claims 3 and 4, as incorporated in claims 11 and 12, respectively.

Reconsideration and withdrawal of this rejection of claims 6, 11 and 12 is respectfully requested.

Claims 15-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsugo et al. in view of Kleewein et al., and further in view of Ermel et al. This rejection is respectfully traversed.

In rejecting claims 15-17, the Office Action relies on Ermel et al. for a teaching of blocks that are displayed three-dimensionally so as to show their height.

Claim 15 depends from claim 2, through claims 5 and 10. Claim 16 depends from claim 3 through claim 9, and claim 17 depends from claim 4 through claim 10.

Ermel et al. do not provide the aforementioned deficiencies in the reference combination (Tsugo and Kleewein) used to reject claims 2-5, 9 and 10 teach or suggest the above-cited limitations of claims 5, 3 and 4, from which claims 15, 16 and 17 respectively depend and, therefore, do not render the inventions recited in claims 15-17 obvious. Moreover, Ermel is directed to displaying computer files, not menu items, and Ermel displays these files a different stacks, not different blocks.

Nor is any clear and particular objective factual evidence provided that would motivate one of ordinary skill in the art to look to Ermel's file stacking display disclosure to Tsugo's or Kleewein's menus and menu elements and submenus. All that is presented regarding motivation is speculation that it would be obvious to modify Tsugo/Kleewein in view of Ermel to "give a user a

complete view of all the available selections of the menu.” However, Ermel’s menus (found in its tool tray 24) are not displayed in three dimensions.

Only file folders and subfolders are shown in three dimensions.

If Ermel did not think of displaying its menus in three dimensions, then Ermel is not a good teaching reference to motivate a skilled worker to modify the base reference combination to change the base reference combination to display its menus in separate three dimensional blocks.

Accordingly, reconsideration and withdrawal of this rejection of claims 15-17 is respectfully requested.

### **CONCLUSION**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants, therefore, respectfully request that the Examiner reconsider the outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the Office Action, and that the present application is in condition for allowance.

If any issues remain, however, the Examiner is invited to telephone Robert J. Webster, Reg. No. 46472, at (703) 205-8076 in an effort to expedite prosecution.

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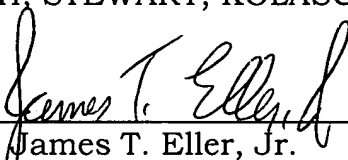
Pursuant to the provisions of 37 CFR 1.17 and 1.136(a), Applicants respectfully petitions for a one (1) month extension of time for filing a response in connection with the present application. The required fee of \$110.00 is attached hereto.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: \_\_\_\_\_

  
James T. Eller, Jr.  
Reg. No. 39,538

0630-061P  
JTE/RJW:gf 

P. O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Enclosure: Check in the amount of \$110.00